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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,350	02/13/2004	Steven J. McCarthy	ID-499 (80229)	9602
27975	7590	04/21/2005		
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791				
			EXAMINER DAFTUAR, SAKET K	
			ART UNIT 2151	PAPER NUMBER

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/779,350

Applicant(s)

MCCARTHY ET AL.

Examiner

Saket K. Daftuar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/13/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>02/13/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-22 are presented for examination.

#### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: The applicant failed to show the reference number "322" (paragraph 35) and "302" (paragraph 36 Specification) in drawing. The drawings are objected to under 37 CFR 1.83(a) because they fail to show "intelligent check step" as described in the specification (paragraph 36) and "Detailed of FIG 18" (paragraph 40). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are

not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammond, (U.S Patent No. 6,854,007), hereinafter Hammond in view of Gu et al, (U.S. Patent No.6, 744,780), hereinafter Gu.

As per claim 1 and 10, Hammond discloses a communications system comprising: a plurality of source message servers for storing messages for delivery to a user and a target message server having a target message box associated therewith [senders and recipients (column2, lines 1-2)], an aggregation server for periodically aggregating the messages from said source message servers to the target message box for retrieval by the user [Message Review Server (MRS) system includes a message sender that collects the supplied message tracking information, sends the message to the specified recipients (column 5, lines 1-4)], and Said target message server providing a

delivery failure message to said aggregation server based upon a failure to deliver a message to the target message box [if the delivery or review of the electronic message has not been confirmed, resending the message (Column 2 line 5-8); examiner consider when there is no confirmation as a failure].

Hammond discloses the claimed invention, but fails to specifically teach that said aggregation server increasing a period of sending messages to the target message box based upon a delivery failure message therefrom, and thereafter decreasing the period of sending messages to the target message box based upon a successful delivery of a message thereto.

Gu teaches a system, wherein an aggregation server increasing a period of sending messages to the target message box based upon a delivery failure message therefrom, and thereafter decreasing the period of sending messages to the target message box based upon a successful delivery of a message thereto [Unique polling interval based on traffic detected and adjust the polling interval according to the extent of status information (Column 3, lines 50-55)].

Therefore, it would have been obvious to one having ordinary skill in the art to include the polling adjustment as being taught by Gu into Hammond's system in order to provide channel capacity over a polling system that is commensurate with the traffic.

As per claims 2, 11, 16, and 19, Hammond discloses that said aggregation server selectively re-sends messages for which delivery failure messages are received [resending the electronic message (column 2, line 7)].

As per claim 3, Hammond discloses that said aggregation server comprises an intelligent checker module for aggregating the messages from said source servers to said target message box [Message Receipt Tracker (Column 5, lines 32-34)].

As per claims 4, Hammond discloses that said aggregation server further comprises a software agent module having a unique address associated therewith; wherein said intelligent checker module sends the unique address with the messages to the target message box; wherein said target message server sends the delivery failure messages to the unique address; and wherein said software agent module associates the delivery failure messages with the target message box [Message Tracking Table Processor (Column 5, lines 32-34). Message Tracking Table Processor periodically reviews the delivery time and review time information in the Message Tracking table (Column 5, lines 34-48). Examiner considers no review time notification as a failure delivery].

As per claim 5, Hammond discloses that said aggregation server further comprises a knowledge base module for cooperating with said software agent module

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for storing delivery failure information for the target message box, [Message Receipt Tracker stores appropriate information in the Message Tracker Table and resets a Resend Timer (Column 5, lines 37-40)], But fails to disclose that said intelligent checker module cooperates with said knowledge base module to increase or decrease the period of sending based upon the stored delivery failure information.

Gu discloses that said intelligent checker module cooperates with said knowledge base module to increase or decrease the period of sending based upon the stored delivery failure information [A polling unit for adjusting the initial polling interval to a subsequent polling interval based on the detection of the at least one traffic status message (Column 12, lines 3-5)]

Therefore, it would have been obvious to one having ordinary skill in the art to include the polling adjustment as being taught by Gu into system in order to provide channel capacity over a polling system that is commensurate with the traffic.

As per claims 6, 13, and 21, Hammond discloses that said knowledge base module cooperates with said software agent module to store the delivery failure information for the target message box based upon a source message box identifier and a message identifier associated therewith information [The Message Sender Components collects the supplied message tracking information, sends the message to

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specified recipients, and stores the message tracking information and the message send time in the Message Tracking Table (Column5, lines 1-4)].

As per claims 7-9, 14, 17, and 22, Hammond discloses a communication devices comprises a mobile wireless communication device associated with the user of the messages from the target message box, wherein the messages comprises electronic mail (e-mail) messages [Recipient computer systems (Column 6, lines 20-22), Hammond further discloses a paging device (Column 6, line 43), and Electronic Messages (Column 1, line 13)].

As per claims 12 and 20, Claims 12 and 20 encompass the same scope of the invention as that of claims 3 and 4. In addition of a medium having computer executable modules (Column 4 Line 42). Therefore, Claim 12 is rejected for the same reason as stated above with regard to claims 3 and 4.

Also in claims 15 and 18, Claims 15 and 18 Encompass the same scope of the invention as that of claim 1. In addition of a medium having computer executable modules (Column 4 Line 42). Therefore, Claims 15 and 18 are rejected for the same reason as stated above with regard to claim 1.



**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saket K. Daftuar whose telephone number is 571-272-8363. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Saket Daftuar  
Art unit 2151  
March 30, 2005

  
**ZARNI MAUNG**  
**SUPERVISORY PATENT EXAMINER**